[Mr. Kayalam Paramesvaran Pillai.]

hands of the subordinates of the Department, and the question whether there should be any further legislation, and all such other matters, may be considered and set right in the Select Committee. I would therefore ask my friends to consider now the main question whether they are prepared to undertake a legislation for the purpose of regulating the width of tyres in springless carts in the interests of the general tax-payer, lakhs and lakhs of whose money are now being spent for the maintenance of our roads.

MR. K. NARAYANAPERUMAL NADAR (*Agastisvaram*): May I ask the Law Member why, in clause 30 of the Bill, punishment by death or by transportation for life, or by lynching as it is done in America, has not been prescribed?

PRESIDENT: You need not answer that question Mr. Paramesvaran Pillai.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I have not got the slightest objection to Mr. Nadar tabling an amendment to that effect. (*Laughter*).

The motion to introduce the Travancore Width of Tyres Bill was then put to the vote of the House and lost.

The Council adjourned for lunch at 2-20 P. M. and met again at 3-15 P. M., the Deputy President presiding.

DEPUTY PRESIDENT: As the Dewan President is suffering from cold, he is not able to preside; I have therefore to preside over the deliberations of the Council now.

THE TRAVANCORE TOWN-PLANNING BILL.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, the next item of business is the Town-Planning Bill. Yesterday, I presented the report of the Select Committee on that Bill and moved that the Bill as reported by the Select Committee be taken up for consideration. As it was suggested by some of the members of the House that the consideration of the Bill might be postponed to this day, it was postponed. I now beg to move for the consideration of the Bill being resumed.

MR. R. NILAKANTA PILLAI (*Financial Secretary to Government*): I second it.

The motion was put to the vote of the House and carried.

Clause 1.

MR. K. NARAYANAPERUMAL NADAR (*Agastisvaram*): Sir, I beg to move the following amendment:—

"In sub-clause (3), insert "1115" after the word "on".

Sir, the Bill makes provision for the appointment of a Director for Town-Planning and also for the necessary establishment for that Officer. If the Bill is to come into operation next year, the Financial Secretary will, of course, stand up at the end of this year and move for a grant of about a lakh of rupees for that purpose.

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MR. S. CHATTANATHA KARAYALAR (*Pattanapuram* cum *Shencotta*) : On a point of order. I doubt whether the motion itself is in order. It simply states that the Bill is to come into force '*on*' 1115. The date is not specified.

MR. K. NARAYANAPERUMAL NADAR (*Agastisvaram*) : I want the enactment to come into operation soon after the beginning of the year 1115.

DEPUTY PRESIDENT : That again is vague. You must specify the date.

MR. K. NARAYANAPERUMAL NADAR (*Agastisvaram*) : I would say it should come into operation on 1-1-1115.

DEPUTY PRESIDENT : I think that would satisfy you, Mr. Karayalar.

MR. S. CHATTANATHA KARAYALR (*Pathanapuram* cum *Shencotta*) : Yes, Sir.

MR. K. NARAYANAPERUMAL NADAR (*Agastisvaram*) : Sir, at the last Budget session, the Financial Secretary told us that he expected to have a surplus of Rs 8·3 lakhs ; but after one or two months he told us that he anticipated a deficit of Rs. 15 or 16 lakhs. Sir, where is the financial integrity ? These are days of retrenchment. Retrenchment is the order of the day, not only here but everywhere. Therefore, in a time like this it is not wise to enact a measure, like the one now before the House, involving such heavy expenditure to Government and also to the people. It is therefore that I suggest that the enactment need come into force only in 1115.

MR. K. KUNJUKRISHNA PILLAI (*Quilon*) : May I know from the member how he happened to pitch upon the year 1115 for this purpose?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Under what clause of the Bill does the member apprehend that the Financial Secretary would make a demand for the purpose of this Bill?

MR. K. NARAYANAPERUMAL NADAR (*Agastisvaram*) : I am not concerned with any particular clause of the Bill just now.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : So, am I to take it that it is not in reference to any provision in the Bill that the member is now making his amendment ?

MR. K. NARAYANAPERUMAL NADAR (*Agastisvaram*) : Sir, the Bill now under consideration is not like the Jenmi-Kudiyan Regulation or the Police Regulation Amendment Bill. It is one which is going to swallow money. There is serious economic depression everywhere now, and it is expected that it is sure to continue for some years to come.

MR. K. KUNJUKRISHNA PILLAI (*Quilon*) : May I know whether the member is sure that the depression is sure to cease just before 1115.

MR. K. NARAYANAPERUMAL NADAR (*Agastisvaram*) : It is a matter of opinion.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*) : Astrological ?

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MR. K. NARAYANAPERUMAL NADAR (*Agastisvaram*): It is economical, and not astronomical.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): If it is economical, we must have the data from which the member draws his conclusion.

DEPUTY PRESIDENT: He has already stated that it is a matter of opinion.

The amendment fell through for want of seconding.

The question that clause 1 do form part of the Bill was put and carried.

The clause was added to the Bill.

Clauses 2 to 21.

The question that clauses 2 to 21 do stand part of the Bill was then put and carried.

The clauses were added to the Bill.

Clause 22.

MR. K. NARAYANAPERUMAL NADAR (*Agastisvaram*): Sir, before speaking on this motion, it is quite unfortunate that I raise a complaint that it is not the copy of the motion that I gave to the Secretary to the Legislative Council. The sentence runs thus: "Delete clauses 22, 23 and 24". But either the Council Secretary or the Law Member has made dissections of my amendment. I submit to the Chair that I may be allowed to deal with clauses 22 to 25 together and to consider all my amendments to them as one amendment. I want permission.

DEPUTY PRESIDENT: Evidently, you want to take objection to the provisions relating to the betterment contribution. You may deal with them clause by clause. You may address the Council as regards the principle underlying all these provisions and afterwards in regard to each clause address the House. I think you have no objection to this procedure being adopted?

MR. K. NARAYANAPERUMAL NADAR (*Agastisvaram*): No Sir, I have no objection. My amendment motion is to delete clause 22. I am dead against this principle of betterment contribution. If a property is injuriously affected, is the owner entitled to compensation for it from the Municipal Council? No. But, when it comes to the question of betterment contribution that is sought to be obtained from the owner.

Section 22 says.

> "Where by the making of any town-planning scheme the value of any property has increased or is likely to increase, the municipal council, if it makes a claim for the purpose within the time, if any, limited by the scheme, not being less than three months after the date of publication of a notification of Our Government sanctioning a scheme under Section 12, shall be entitled to recover from the owner of such property an annual betterment contribution for such term of years and at such uniform precentage of the increase in value not exceeding ten per centum as may be fixed in the scheme:
> Provided that the aggregate amount of the contributions so recovered shall not exceed one-half of the maximum increase in value during the aforesaid term of years as ascertained under the next following Section."

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I believe that it is likely to cause great hardship. Sir, some of our municipalities have become litigants. For instance, Kottayam is one; and Padmanabhapuram is another; and if this provision is allowed to remain in the Bill, I believe all the municipalities in the State would become litigant municipalities. Therefore, I think that the provision for betterment contribution should be removed altogether from the Bill. I may be entirely right or I may be entirely foolish even. (*Laughter.*) But I believe that the abolition of this clause would be for the good of the people. I am convinced of it and therefore I stand for this amendment.

For want of seconding, this amendment was considered to have been lost.

The question that clause 22 do form part of the Bill was put and carried.

The clause was added to the Bill.

Clause 23.

DEPUTY PRESIDENT: The member's remarks relating to clause 21 apply to this also; is it not so Mr. Nadar?

MR. K. NARAYANAPERUMAL NADAR (*Agastisvaram*): Yes Sir. One word, that is to say, clause 22 has not been allowed to remain in the Statute Book. Therefore, I move for the deletion of this clause also.

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): May I remind the member that clause 22 remains part of the Bill?

MR. K. NARAYANAPERUMAL NADAR (*Agastisvaram*): Then I dissent, Sir. I am not going to withdraw my amendment on that score. I would court defeat and prefer that to cowardly withdrawal.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): Sir, I rise to a point of order. The motion has not been seconded. There is therefore no question of withdrawal.

DEPUTY PRESIDENT: As it is, you may move the amendment Mr. Nadar.

MR. K. NARAYANAPERUMAL NADAR (*Agastisvaram*): Yes Sir; I move the amendment.

DEPUTY PRESIDENT: Anybody to second that amendment? No.

For want of seconding, the amendment was declared lost.

The question that clause 23 do form part of the Bill, was then put to the vote and carried.

The clause was added to the Bill.

Clause 24.

MR. K. NARAYANAPERUMAL NADAR (*Agastisvaram*): Sir, I move for the deletion of the clause.

DEPUTY PRESIDENT: There is an amendment motion by Mr. Nadar to clause 24. Is there anybody to second it? No.

For want of seconding, the amendment was declared lost.

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The question that clause 24 do form part of the Bill was then put to the vote and carried.

The clause was added to the Bill.

Clause 25.

MR. K. NARAYANAPERUMAL NADAR (*Agastisvaram*): Sir, I move for the deletion of the clause.

DEPUTY PRESIDENT: Anybody to second the amendment? No.

For want of seconding, the amendment was declared lost.

The question that clause 25 do form part of the Bill was then put to the vote and carried.

The clause was added to the Bill.

Clauses 26 to 33.

The question that clauses 26 to 33 do form part of the Bill was put to the vote and carried. The clauses were added to the Bill.

Clause 34.

MR. M. GOVINDAN (*Nominated*): Before going to the amendment, I wish to draw the attention of the House to the first paragraph of the clause.

> "The provisions of Sections 14, 22 and 23 of the Land Acquisition Regulation, XI of 1089, shall have no application in the acquisition of property for the purposes of this Regulation".

That is how the first paragraph reads. That shows that Sections 14, 22 and 23 do not affect the provisions of this Regulation except to the extent hereinafter repeated. In fact the subsequent provisions are purely a repetition of Sections 22 and 23. But it so happens that the important provision of Section 22 relating to 15 per cent. *solatio* does not find a place here. Therefore, I propose that the provision here should also confer the benfit of 15 per cent. in addition to the market value. Under the Land Acquisition Regulation, owing to the compulsory nature of the acquisition, 15 per cent. of the market value is also given to the person whose property is acquired. That provision is omitted here. I wish a similar provision is made in this Bill also. I am not making a novel suggestion. I am simply asking this House to adopt a beneficial provision from the Land Acquisition Regulation now in force. Sir, the principle that a man has absolute power of disposal over his property and that he need not part with it if he is not willing, must be considered to be the foundation of the right over property. Now, for public purposes and other paramount considerations, we are practically making a legal infringement on that right of private ownership. When we do so, the legitimate extra compensation provided under the Land Acquisition Regulation should certainly be given to the owner of the property compulsorily acquired. There is no reason whatever why we should omit that provision in this Regulation. Suppose I own a property in the middle of the town and I am not willing to part with it. If for public purposes it is necessary, 15 per cent. has to be paid to me in addition to the market-value under the Land Acquisition Regulation.

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Why should that be denied to me in the case of acquisition for town planning? I do not see any reason for that. I believe the Law Member will have no objection to accept my amendment. I shall read the amendment.

After clause 2 (d), insert the following:—

"In addition to the market value of the land as above provided, the Court shall, in every case, award a sum of fifteen per centum on such market value, in consideration of the compulsory nature of the acquisition."

By the insertion of that clause there, the subsequent sub-section will have to be renumbered. The subsequent sub-section is now numbered (3), and as I am appropriating (3) for my amendment, the subsequent sub-section will have to be renumbered as (4).

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): I second it.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I oppose the amendment. It is no doubt correct on principle, to some extent, that an owner of property should be given something extra as a *solutium* for the compulsion he is subjected to in parting with his property. That principle is accepted in the Land Acquisition Regulation which applies to the acquisition of land throughout the State. But, in this particular case the land which is to be acquired would generally be within the municipal limits and the body that would be called upon to pay for the land is the Municipal Council. It is a matter for consideration whether the Municipalities, which work directly in the interests of the towns, and the town-dwellers should be called upon to pay 15 per cent. in excess of the fair value of the prperty merely because of the compulsory nature of the acquisition.

MR. M. GOVINDAN (*Nominated*): Is it not in the interests of the State that land is acquired under the Land Acquisition Regulation.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): May be.

The Municipal Council is created by statute and has its own rights and its own liabilities, and it is functioning for the citizens. When acquisition is made by it, it is made directly and specifically for the comforts and amenities of the city and its inhabitants. That is why this *solatium* has not been provided for in the Bill. This is the view taken elsewhere also. The provision is similar in the Madras Town-Planning Act. When land is acquired by a Municipality mainly for the benefit of its inhabitants, it should not be asked to pay anything more than the market value.

There is another aspect of the question. After all, who is going to bear the burden of this extra payment? The Municipal Council. The Municipal Council gets its revenue only from the citizens of the Municipality. Therefore, this burden would become an additional burden on the people of the locality. You may ask the question whether the Government are not paying something extra and whether they also do not get their revenue from the people. No doubt, Government get their money from the people. But the Municipal Council,

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[Mr. Kayalam Paramesvaran Pillai.]

works directly and specifically for the comfort of the citizens of the locality, and so it should not be asked to pay anything extra. That is the opinion held elsewhere on this question.

MR. S. KRISHNA PILLAI (*Karunagapalli*): What is the work of the Government?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): They work in the interests of the people.

MR. S. KRISHNA PILLAI (*Karunagapalli*): Then, why should they be called upon to pay anything extra?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It may be a mere matter of opinion. The proper opinion according to me and according to the Select Committee and according to other Legislatures is that the Municipal Council should not be called upon to pay anything more than the real and fair value of the land.

MR. S. KRISHNA PILLAI (*Karunagapalli*): Is the owner of the land, who is compelled to surrender it to the Municipality, entitled to a portion of the land when the scheme is completed?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): If the land is acquired, he will not be entitled to it.

MR. S. KRISHNA PILLAI (*Karunagapalli*): What is it that the Municipality would do with the land?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It will use it for the purpose for which it is acquired.

If it is meant to be leased out, they will lease it out. If it is to be sold, they will sell it. But that is not the question now. The question is whether the Municipal Council should really be called upon to pay anything more than the fair value of the property it acquires in the interests of town planning.

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): Is not the member aware that by the acquisition of the land and by making the town more convenient, the Municipality would get a betterment contribution?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): I beg to oppose the amendment. The absence of such a legislative provision, elsewhere (which has been referred to by the Law Member) in the Town-Planning Act alone, while there is specific provision in regard to acquisitions made by Government for public purposes, makes us enquire—in fact this is a point which has been thought over and discussed thread bare in the Select Committee—into the special reason why such a provision has been omitted in the Town-Planning Acts alone. Though there is much of similarity between the objects of town-planning and the purpose of Government as far as the people are concerned, there is this very material difference *viz.*, that the activities of Government are

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manifold and so very extensive that it may not always be possible for an individual who parts with his land to enjoy directly the benefits derived from due to the acquisition of his land by Government. For instance, if land is acquired, in the Quilon Chinnakkada Market for the purpose of constructing the residential quarters of the Executive Engineer, the owner of the property who parts with his land for that purpose does not stand to gain anything. There are numerous activities of Government which do not directly benefit the owner of the land acquired by the Government. On the other hand, there is the Municipality which solely, entirely, and exclusively exists for the benefit of the citizens in that municipal town; and, whatever activity the municipality is engaged in directly and indirectly, more often directly than otherwise goes to the benefit of the citzen whose land is acquired by the Municipality.

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): If all that a person owns within a municipal town is acquired by the Municipality, how will he get any benefit out of it?

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): I shall try to clear the doubt raised by my friend. Suppose at Chinnakada or some other part of Quilon, the Municipal Council wants to acquire lands for opening a market. That will directly benefit the whole town including the person who parts with his land in that particular locality. It is in that way that this Bill has to be viewed. My submission is that all that is done by a Municipality in pursuance of a town-planning scheme is sure to confer equal benefits upon all its citizens, not in that vague and general way in which the activities of Government benefit the citizens who part with their lands under the Land Acquisition Regulation, but in a *direct* way. Probably, it is this difference that has led the framers of similar laws in other countries to make a distinction in the case of Town-Planning Acts alone.

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): I do not think I have made myself clear. Suppose a land-owner parts with his land for the purpose of a town-planning scheme. Once his only property within the town has been acquired, what benefit can he get?

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): That is an evil which cannot be remedied. It is an instance of an individual making a sacrifice for the sake of the community.

MR. S. CHATTANATHA KARAYALAR (*Pattanapuram* cum *Shencotta*): Sir, I beg to support the amendment of Mr. Govindan. The principle underlying the payment of an extra 15 per cent. under the Land Acquisition Regulation applies with equal force to the acquisitions under this enactment. It is a sort of *solatium* that is paid to the owner of land in consideration of the compulsory nature of the acquisition. I would, therefore, strongly support the amendment brought forward by Mr. Govindan.

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MR. J. S. WESTERDALE (*Chief Engineer*) : Sir, I rise to oppose the amendment. In this case, a fundamental principle is involved. The necessity for town-planning is in pursuance of a principle. And that is, that the Municipality must be given assistance, by law, in every way, to facilitate the preparation and passing of town-planning schemes. What is the essential assistance that is required in this connection? It is the acquisition of land. It is for this fundamental reason that special powers are sought to be given, by the Town-Planning Bill, to the Municipalities. Any benefit or return secured by the Municipality by this provision in the Bill will go to reduce the cost of this scheme. That is the main basis of the provision. The other important principle involved in this provision is that legislation proposed should prevent inflation of values when a town-planning scheme is prepared. That is intended to protect the Municipality against speculation. This point is simply incidental to the general principle, namely that town-planning schemes should be as cheap as possible and that the people of the town must be prepared to sacrifice their personal interests to a small extent for the sake of the people of the town as a whole.

MR. K. KUNJUKRISHNA PILLAI (*Quilon*) : I seconded this amendment; and I wish to know from the Chair whether I have a right to speak on this motion.

DEPUTY PRESIDENT : I allow you to speak.

MR. K. KUNJUKRISHNA PILLAI (*Quilon*) : I wish to speak a word or two in support of the amendment before the House. I grant that people living in towns ought to make a sacrifice for the common benefit that they derive owing to the introduction of the town-planning scheme. My position is that, when a man surrenders, sometimes the only piece of land that he possesses, sometimes his family property with a lot of sentiment around it, whatever be the price that he may get, he does make a sacrifice. Ordinarily, I will not for a moment allow my family house being taken away from me or my place of worship in my family house being shifted from there. It is not a small matter for a man to be deprived of his land be it for the common benefit, to be deprived of his holding, often times his only holding, and that without extra compensation. Sometimes, he may have to leave the limits of the town which is going to be benefited by such acquisition. He may have to put up a new building which may involve heavy expenditure and which may be assessed heavily on the principles enunciated by the Chief Engineer. The putting up of a new building now and in days to come is sure to cost heavily since the cost of labour has increased. It will be only equitable under such circumstances to allow some extra compensation to the owner. I am not for insisting on the *solatium* provided in the Land Acquisition Act. I think some extra contribution at least must be given to the owner. It is only fair and equitable.

With these words, I support the amendment.

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MR. P. S. MAHOMED (*Nominated*): മിസ്റ്റർ ഗോവിന്ദൻ ഇവിടെ ഹാജരാക്കിയ അമൻറുമെൻറിനെ ഞാൻ എതിർക്കുന്നു. മുനിസിപ്പൽ അതൃത്തിക്കകത്തുള്ള ഒരു സ്ഥലം മറെറാരാൾ വിലയ്ക്കു വാങ്ങിക്കുമ്പോൾ കൊടുക്കുന്ന തുകയെക്കാൾ കൂടുതലായ ഒരു സംഖ്യ പൊതുജനങ്ങളുടെ ഗുണത്തിനുവേണ്ടി ഒരു സ്ഥലം വിടുന്ന സന്ദർഭത്തിൽ ആഗ്രഹിക്കുന്നതു് ശരിയല്ല. ലാൻറ് അക്വിസിഷൻ റൂൾസ് അനുസരിച്ചു് ഒരു സ്ഥലം വിലയ്ക്കു എടുത്താൽ അതു് മാർക്കറ്റ് റേറ്റ് അനുസരിച്ചുള്ള വിലയെക്കാൾ കവിഞ്ഞിരിക്കുകയല്ലാതെ ഒരിക്കലും കുറവായി വരികയില്ല.

MR. A. S. DAMODARAN ASAN (*Mavelikara cum Kartikapalli*): വില കവിഞ്ഞുപോയാൽ അതിനേപ്പററി ചോദ്യമില്ലെ?

MR. P. S. MAHOMED (*Nominated*): ഏതായാലും ശരിയായ വില കിട്ടുമെന്നുള്ളതിനു് സംശയമില്ല.

പൊതുജനങ്ങളുടെ ഗുണത്തിനുവേണ്ടി വിലയ്ക്കെടുക്കുന്ന ഒരു സ്ഥലത്തിനു വില കൂടുതൽ വേണമെന്നു അതു ടൌണിൻെറ അകത്തുതന്നെ താമസിക്കുന്ന ഒരാൾ ആവശ്യപ്പെടുന്നതു് ശരിയല്ല. ഈ സംഗതി വേറൊരാളാണു് പറഞ്ഞു എങ്കിൽ തരക്കേടില്ല. ജനങ്ങളുടെ ഗുണത്തിനുവേണ്ടി പ്രവർത്തിക്കുന്നതിനു ഒരു സ്ഥലം എടുക്കണമെന്നു വിചാരിക്കുമ്പോൾ അവർ ചെയ്യുന്ന പ്രവൃത്തിക്കു് അവർതന്നെ മറെറാരുഭാഗത്തുനിന്നും കൂടുതൽ വേണമെന്നു് ആവശ്യപ്പെടുന്നതു നീതിക്കു വിരുദ്ധമാണു്.

MR. M. GOVINDAN (*Nominated*): ഗവണ്മെൻറു പ്രവർത്തിക്കുന്നതു് ആരുടെ ഗുണത്തിനുവേണ്ടിയാണു്?

MR. P. S. MAHOMED (*Nominated*): ഗവണ്മെൻറു ജനങ്ങളം പ്രവർത്തിക്കുന്ന രീതിയിലല്ല പ്രവർത്തിക്കുന്നതു്. ഇതു ജനങ്ങളുടെ ഗുണത്തിനുവേണ്ടി ജനങ്ങളംതന്നെ പ്രവർത്തിക്കുകയാണു് ചെയ്യുന്നതു്. അങ്ങിനെ ചെയ്യുന്ന സന്ദർഭത്തിൽ കൂടുതൽ ലാഭം വേണമെന്നു പറയുന്നതു് നീതിപൂർവ്വമല്ല. ഇതു് പൊതുവെ ജനപ്രതിനിധികളെസംബന്ധിച്ചിടത്തോളം ഇന്നു് വീക്ഷിച്ചുകൊണ്ടിരിക്കുന്ന നയത്തിനു യോജിച്ചതുമല്ല. അതുകൊണ്ടാണു് മദ്രാസിൽ ഈ സംഗതി ഉപേക്ഷിച്ചിട്ടുള്ളതു്.

MR. S. KRISHNA PILLAI (*Karunagapalli*): മുൻസിപ്പാലിറ്റിക്കു് വെളിയിലുള്ള സ്ഥലംകൂടി എടുക്കാൻ ഇതിൽ പ്രൊവിഷൻ ഉണ്ടെന്നു മെമ്പർക്കറിയാമൊ?

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MR. P. S. MAHOMED (*Nominated*): അറിയാം.

MR. S. KRISHNA PILLAI (*Karunagapalli*): അങ്ങിനെയാണെങ്കിൽ മെംബറുടെ ഈ സമാധാനം മതിയാകുമൊ?

MR P S. MAHOMED (*Nominated*): മുനിസിപ്പാലിറ്റിക്കുവെളിയിൽ സ്ഥലം എടുക്കേണ്ടയാവശ്യമില്ല.

ടൌൺപ്ലാനിംഗ്സ്കീം അനുസരിച്ചാണു് സ്ഥലംഎടുക്കുന്നതു്. അതിലേയ്ക്കു ടൌണിനകത്തുള്ള സ്ഥലം മതി. മുനിസിപ്പൽ അതൃത്തിക്കകത്തുനിന്നും ഒരു സ്ഥലം എടുത്താൽ അതുകൊണ്ടുള്ള ഗുണം ആ അതൃത്തിക്കകത്തുള്ളവക്കെല്ലാവക്കും കിട്ടുന്നതാണു്.

MR. M. GOVINDAN (*Nominated*): മദ്രാസിൽ അല്ലാതെ വേറെ എവിടെ എങ്കിലും ഈ സംഗതി ഉപേക്ഷിക്കപ്പെട്ടിട്ടുള്ളതായി അറിയാമൊ?

MR. P. S. MAHOMED (*Nominated*): മറു സ്ഥലങ്ങളിലുള്ള സംഗതി ഞാൻ നോക്കിയിട്ടില്ല.

MR. A. NARAYANA PILLAI (*Vaikam*): മിസ്റ്റർ ഗോവിന്ദൻ ഹാജരാക്കിയ അമൻറുമെൻറിനെ ഞാൻ അനുകൂലിക്കുന്നു. മുനിസിപ്പൽ അതൃത്തിക്കകത്തു താമസിക്കുന്നവരെല്ലാം വലിയ പണക്കാരാണെന്നാണു് ഇവിടെ നിർദ്ദേശിച്ചിരിക്കുന്നതു്. മുനിസിപ്പൽ അതൃത്തിക്കകത്തു് താമസിക്കുന്നവർ ആവശ്യപ്പെടാത്ത സൗകര്യങ്ങളും കൂടി ഉണ്ടാക്കിക്കൊടുത്തിട്ടു് അവരിൽനിന്നും കൂടുതൽതുക കരമായിട്ടും ചുങ്കമായിട്ടും മുനിസിപ്പാലിറ്റിയിൽനിന്നും ഈടാക്കി വരുന്നുണ്ടു്. ഞാൻ ആവശ്യപ്പെടാത്തതാണെങ്കിലും എനിക്കു കൊടുക്കാൻ ശേഷി ഇല്ലെങ്കിലും ഞാൻ കൊടുത്തതീരു എന്നാണു് മുനിസിപ്പൽ നിയമത്തിൽ കാണുന്നതു്. ഞാൻ താമസിക്കുന്ന സ്ഥലം മുൻസിപ്പൽ അതൃത്തിക്കകത്താണെങ്കിൽ എന്നിൽ നിന്നും തുക ഈടാക്കി എടുക്കുന്നതിനും മുനിസിപ്പൽ നിയമം അനുസരിച്ചു് അധികാരം ഉണ്ടു്. ഞാൻ താമസിക്കുന്ന ഒരു ചെറിയസ്ഥലം എനിക്കു് കൊടുക്കേണ്ട ആവശ്യമില്ലാതിരിക്കുമ്പോൾ നിർബന്ധമായിട്ടു് എന്റെ വസ്തുകൊടുക്കണമെന്നുള്ളതാണു് ഇതിൽ വന്നിരിക്കുന്നതു്. ഈ സ്ഥലം ഞാൻ കൊടുക്കുന്നതിനു പകരം വേറൊരുസ്ഥലം അന്യനിൽനിന്നും എനിക്കു് വാങ്ങിക്കേണ്ടിയിരിക്കുന്നു. അതിനു മുനിസിപ്പാലിറ്റിയിൽനിന്നും നിശ്ചയിക്കുന്നവില മതിയാകുകയില്ല. അതിനു വസ്തുഉടമസ്ഥൻ നിശ്ചയിക്കുന്ന വിലതന്നെ കൊടുക്കണം. ഇപ്പോൾ കൂടുതൽ കൊടുക്കുന്നതിനു് നിശ്ചയി

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ച്ചിട്ടുള്ള ൧൫ ശതമാനം ഈ വസ്തുഉടമസ്ഥന് സൌജന്യമായികൊടുക്കുന്നതല്ല. ഗവണ്മെൻറ് നിശ്ചയിക്കുന്നവിലയെക്കാൾ ൧൫ ശതമാനമൊ ൨൦ ശതമാനമൊ കൂടുതൽ കൊടുത്താൽ മാത്രമെ വേറെസ്ഥലം വാങ്ങിക്കാൻ സാധിക്കുകയൊള്ളു. ടൌണിനകത്തുള്ള സകല സൌകര്യങ്ങളും ഉപേക്ഷിച്ച് വെളിയിൽ എവിടെ എങ്കിലും പോയി അവിടത്തെ വസ്തു ഉടമസ്ഥൻ പറയുന്നവിലകൊടുത്ത് വസ്തുവാങ്ങിക്കേണ്ടിയിരിക്കുന്നു. സംഗതികൾ ഇങ്ങനെയിരിക്കുന്നതിനാൽ നൂറിന് ൧൫ വീതംകൊടുക്കേണ്ട എന്ന് പറയുന്നത് ഒട്ടും ന്യായമല്ല. ഗവണ്മെൻറിൽ നിന്നും എടുക്കുന്നതുകൊണ്ട കൊടുക്കണമെന്നും മുനിസിപ്പാലിറ്റിയിൽ നിന്നും എടുക്കുന്നതുകൊണ്ട് കൊടുക്കാൻപാടില്ല എന്നും പറയാൻ പാടില്ല. ഗവണ്മെൻറിന് അധികാരമുണ്ട് ; കൊടുത്തില്ലെങ്കിൽ എടുക്കുമെന്നറിയാം ; വസ്തു ഉടമസ്ഥൻ നിശ്ചയിക്കുന്ന വില കിട്ടണമെന്ന് പറയാൻ അയാൾക്ക് അധികാരമുണ്ട് ; എന്നിരിക്കെ ആ അവകാശം എടുത്തു കളഞ്ഞിട്ട മുനിസിപ്പാലിറ്റിയിൽനിന്നുംതീരുമാനിക്കുന്നവില പറഞ്ഞിക്കൊള്ളണമെന്ന നിശ്ചയിക്കുന്നത് ന്യായമല്ല. നൂറിന് പതിനഞ്ചു വീതംഎങ്കിലും കൂടുതൽ കൊടുത്തുതന്നെ വസ്തുക്കൾ വിലയ്ക്കുടുക്കണമെന്നുള്ള അമൻറുമെൻറിനെ ഞാൻ അനുകൂലിക്കുന്നു.

MR. K. P. MADHAVAN PILLAI (*Shertallai*) I am inclined to support the amendment before the House. The only Regulation which provides for compulsory acquisition of land for public purposes is the Land Acquisition Regulation; and that provides 15 percent., over and above the market value of the land being paid to the owner of the land. The enforcement of the provisions of this Bill would do the owner of the land double injury. He would have to remove his family residence from the town; and he is to be paid only the bare price of his property when he is really not in need of selling it, when he is compulsorily deprived of it. I therefore support the amendment now before the House.

MR. K. GOPALAKRISHNA PILLAI (*Parur*): I wish to oppose the amendment. From the mere fact that the Government is prepared to give 15 per cent. in excess of the market value it does not follow that a municipality also should pay the excess to the owner of the land when the municipality acquires it. It may be a mistake made by the Government out of respect for the right of private propertry to have agreed to pay this excess of 15 per cent., to the owners of private property when their property is acquired. Government is always bound to respect the rights of private parties. But the question is different in the case of municipalities which are self-governing bodies.

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): I hope the member would concede that it would be equitable to nationalise property.

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MR. K. GOPALAKRISHNA PILLAI (*Parur*): Yes. The tendency of the world is towards that.

If municipalities are going to be benefited by town-planning schemes and if town-planning is necessary for the welfare of the town; I do not know why any person should be given any excess over and above his due. Market value is the proper value, and any man has a right to get that. Why should 15 per cent., in excess of that be given to any owner of land? I cannot understand that. Moreover, when the Government acquire land, such acquisition may not directly benefit the owner who parts with the land or the people of the locality. Supposing a site in a town is selected for the purpose of a T. B., it is not going to benefit the people of the town in any way. Occasionally, an officer may come and stay there for some time and go away. That is not the case with acquisitions for town planning. They are sure to benefit the people of the town directly. So, I do not see why a solatio should be given to the land owner in the town.

Another difficulty is that 15 per cent. excess payment will be so great a sum that very few Municipalities in the State can afford to pay. Already they are very poor and if they are asked to pay 15 per cent. *in excess* of the market value for every piece of land they have to acquire, I think none of them will work out this town-planning scheme. It will be a financial impossibility for them to carry out any scheme which involves such heavy expenditure. If the improvement of our towns is considered necessary for the health of the people of the State as a whole, I think that such extra-leniency should not be shown to the land owners within the towns. I therefore oppose the amendment.

MR. S. KRISHNA PILLAI (*Karunagapalli*): Sir, in supporting the amendment, I have to bring to the notice of this House one or two facts in addition to those that have already been stated by other members. The Law member who opposed the amendment advanced only one reason, or rather advanced one important reason, *viz.*, that the Municipal Councils are self-governing institutions, that lands are acquired within the Municipalities for the beneficial enjoyment of all those who are living within the municipal limits, and that therefore, as a matter of course or as a matter of justice, the Municipalities ought not to be called upon to contribute a further percentage out of their municipal funds in addition to the real value of the lands. I am not in a position to appreciate fully the wealth of reasoning contained in that argument. Under the Land Acquisition Regulation, lands are ordinarily acquirable only for public purposes; and public purposes are defined in the Regulation. Government who acquire lands under the Land Acquisition Regulation are as much responsible to the people, from whom they collect money, as the Municipal Councils of the State. If the Government collect revenue from the people, it is only for the purpose of expending it for their benefit. Government do not exist apart from the people or those who contribute revenue to the Government. Similarly, a Municipal Council has got certain public functions to discharge. It has also been brought into existence for the purpose

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of serving the people. So, the public utility of the institution, I suppose, will not be any justification for claiming a preferential treatment.

My second difficulty in regard to this is, this Municipal Council being a self-governing institution, the Law Member thinks that everybody living in this country should have some fondness for that institution and should sacrifice some little of his privileges and rights for the up-keep or pubringing of this institution. Section 7 of the Town-Planning Regulation says that it is not only the area within the Municipality that could be so acquired, but that the area outside could also be acquired. I can understand that there is perhaps, some reason in saying that a landowner living within the Municipality is bound to make some little sacrifice. But what about the land-owner living outside the Municipality? My friend, Mr. P. S. Mahomed, stated that he is a neighbour and therefore he would also be benefited to some extent like people living within the Municipality. I do not suppose that the Municipalities are capable of entertaining neighbours and spending money for their benefit. It will be *ultra vires* of the Municipality to extend its charity to neighbours. Therefore, the plea that a Municipal Council is a self-governing institution supported by contributions made by the people and that the land-owner ought to sacrifice fifteen per cent. which he would otherwise be entitled to, is not an argument which can be supported.

Another point that I have to bring to the notice of the House is, that every law is promulgated for the purpose; in the first instance of individual rights and liberties. Whenever a law is enacted for a body of people, greater attention is bestowed upon individual rights. The law must always see that, as far as possible, it does not interfere with individual and private rights. When public convenience demands that such individual rights have to be interfered with, adequate compensation ought to be made to that individual whose rights are infringed. It is, I believe, in virtue of that aspect of law that the Land Acquisition Regulation provides that 15 per cent. of the market value, should be given to the person who is compulsorily deprived of his property. You will find that the Land Acquisition Regulation is the only Regulation of its kind which empowers the Government to deprive an owner of his land. But for that Regulation, the ownership of land is absolute and can be protected against everybody else in the world. It is because he would be deprived of that right that the law says that, as compensation, he shall be given 15 per cent. in addition to the fair value. What is fixed as the market value of the property may or may not be the fair value of the property. One member here suggested that it will always be in excess of the fair value of the property. I am afraid there have been instances in which the market value of the property fixed under the Regulation has been fixed very low. In the majority of cases it is so. Whatever that may be, the reason for the award of this 15 per cent. is a very sacred reason, *viz.*, that a person is deprived, against his will of his right of preserving or conserving or protecting his property as against

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[Mr. S. Krishna Pillai.]

the entire world. That is an individual right, and that right is interfered with under the Land Acquisition Regulation. The same interference is sought to be made by the Town-Planning Regulation also; and in the eye of law. I am unable to see any difference between these two Regulations in this matter. In both cases it is an interference by a constituted authority under a law. It is an interference of a vested right which, but for the passing of this Regulation, would be unlawful or illegal. Since a vested right is sought to be interfered with the owner must be fully and amply compensated for. If a Municipality cannot exist without the bounties or without the charity from individual persons living within the Municipality, I think that Municipality has absolutely no reason to exist. Mr. Gopalakrishna Pillai stated that if the Municipal Councils were asked to pay a 15 per cent. contribution in addition to the market value of the property, they would be unable to put into force the provisions of the Regulation. I am afraid that, if there is a Municipal Council in the State that is unable to pay in spite of the funds to be raised under the Town-Planning Regulation 15 per cent. more than the market value for lands acquired by it, I think that Council has absolutely no reason to complain that it is not in a position to bring into force the provisions of this Regulation. The poverty of a Municipality should not be urged as a ground for depriving an individual of this private right. No sound reason appears to have been urged in opposing this amendment, and I am fully in agreement with my friend Mr. Govindan that the clause should be amended on the lines suggested by him. If the amendment is not made, I am certain it will work hardship.

MR. E. V. KRISHNA PILLAI (*Kottarakara cum Kunnattur*): Sir, I wish to draw the attention of the Council to the conduct of one of the members of the staff who has placed on my table a book entitled the "Legislative Council Proceedings" signed by one Mr. K. P. Visvanatha Aiyar, who calls himself "Secretary to the Legislative Council". I do not know whether it is an authorised publication; because I know of only Mr. P. Visvanatha Aiyar, Secretary to the Legislative Council. I do not know who this Mr. K. P. Visvanatha Aiyar is.

DEPUTY PRESIDENT: There is the assurance from the Secretary himself that it is an authorised publication.

MR. N. K. KRISHNA PILLAI (*Neyyattinkara*): There is no reason why a vendor should be asked to forego the solatium of 15 per cent. simply because the Municipality happens to be the purchaser. Sir, the argument advanced by Mr. E. V. Krishna Pillai in opposing the amendment, was that the Municipality exists solely for the benefit of those residing within its limits. In regard to that point I may submit that I beg to differ from him. According to me, every Municipality exists as much for the citizens resident within its limits, as for others who resort to it as occasions need. From a book I recently read about municipal administration in America, I learned that the view generally held in that country in regard to municipal administration

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is that Municipalities exists not only for those within the municipal limits but for the country as a whole. That is the opinion prevailing in countries more civilised and advanced than Travancore and that is the basic principle on which the Government contribute, out of the general revenues of the State, towards the maintenance of Municipalities. My submission therefore is that there is no reason why, simply because a Municipality purchases a particular property, the owner should be deprived of the solatium which he would have been given if the Government happened to be the purchaser. For example it cannot be said, that when a Municipality acquires land for opening a road leading within the municipal limits, the benefit of the road is derived solely by the residents of the Municipality. The road is as useful for them as it is for those out side who make use of it though usually they do not reside in the Municipality. Therefore, Sir, viewing the question in its broader aspect I am of opinion that this solatium should not be withheld simply because a Municipality happens to be the purchaser. With these observations, I support the amendment.

MR. M. GOVINDAN (*Nominated*): In rising to reply to the observations made in respect of my motion, I have to thank Mr. S. Krishna Pillai for the able speech in which he met all the arguments advanced against it; and there is very little remaining for me to answer. My friend, the Law Member, practically agreed with me in regard to the principle that there is hardly any difference between the acquisition of land by the State and the acquisition of land by the Municipality. The only difference is that, in the case of the Municipality, the geographical limits happen to be narrow, while those of the State are larger. In principle, both are identical.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): Is there only geographical difference between the functions of the Municipality and those of the State?

MR. M. GOVINDAN (*Nominated*): We are not now at the functions of the Municipality. The question now raised is about the benefits derived by the people by Municipal administration, as compared with the administration by Government. And, I say, both are intended for the good of people. The extent of public good in the case of Municipality is confined to the municipal limits, whereas, in the case of Government, it is extended to the whole State. My friend, Mr. E. V. Krishna Pillai, had to resort to an illustration from Chinnakadai market and the construction of the Executive Engineer's Bungalow there for the argument. Why not my friend take the illustration of the acquisition of land for a hospital? That illustration would not have been in favour with the *sentiment* that he wanted to rouse in the House.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*): Does my friend want me to give illustrations in support of *my* position or *his*?

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MR. M. GOVINDAN (*Nominated*) : My friend wanted to stimulate the *sentiment* of the House against my amendment. He did not want to argue logically. That is all that I have to submit; and I have absolutely no quarrel with him in his going to *Chinnakadai* or to any other *Kadai* for an illustration in support of the argument.

MR. E. V. KRISHNA PILLAI (*Kottarakara* cum *Kunnattur*) : My friend suggested that the functions of the State and that of the Municipality are identical.

MR. M. GOVINDAN (*Nominated*) : I did not say so.

With regard to my friend who is sitting next to me, Mr. Gopalakrishna Pillai, with his well known views in favour of land-nationalisation he could not find it possible to support my amendment. I see, that consistent with his principles, this amendment could not be supported. But once we are to respect private property, my point is that that question does not arise. The time may come, at a distant future, when, in Travancore also, land-nationalisation might be adopted by the people. Probably it will be time then for us to with-hold the solatium. The whole State will then be one Municipality, and we will have nothing but nationalised land; and we need not respect private property. So, it is not possible for me to accept that position *now*.

I have only one word more with regard to the position of my friend Mr. P. S. Mahomed, the President of one of the premier Municipalities in the State. His position is that in all cases of acquisition of land the amount that is paid to the owner as price is always more than the real worth of the property. My friend Mr. S. Krishna Pillai has answered him most effectively. I am sure everybody in this House will agree that the Revenue Officers, who are to assess the market value of properties, do not err on the side of generosity towards the owners. That must be admitted by everybody; and it will be borne out by the number of cases pending in our civil courts about this matter.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : And, what do the courts do?

MR. M. GOVINDAN (*Nominated*) : The courts hold the balance even. But, there are many injured people who are not able to resort to that costly machinery, I mean the courts of justice. One other point that I wish to emphasise is that, in Travancore, most of the land-holders are owners of single holdings, so that, if their property is acquired compulsorily, they would have to leave their native places and go elsewhere.

MR. J. S. WESTERDALE (*Chief Engineer*) : On a point of order, Sir. The member is now raising a new point. He is not replying to the points raised in the debate.

MR. M. GOVINDAN (*Nominated*) : It *was* argued in this House that the owners of the properties acquired, were actually being paid more than what the properties were really worth. It is not a new point that I am raising.

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MR. K. KUNJUKRISHNA PILLAI (*Quilon*) : Even apart from this particular instance, is not Mr. Govindan entitled to raise a new point now ?

DEPUTY PRESIDENT : We will drop it. Mr. Govindan has answered Mr. Westerdale already.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : May I ask Mr. Govindan whether the seriousness of the objection to persons being compelled to leave their native villages or towns would vanish if they are paid adequate compensation, and if they are paid 15 per cent. *solatium* ?

MR. M. GOVINDAN (*Nominated*) : My point is that the law on the point must be uniform in all cases. In the cases of acquisition of land outside the municipal limits, the owners are given the 15 per cent. *solatium*. Why should that be dropped simply because the Municipality happens to be the purchaser ? I respectfully submit, for the consideration of the House, that it would be a very serious hardship if the owner of the property, who is *compelled* to part with his holding, is not given the *solatium* of 15 per cent.

Mr. Westerdale said—if I heard him aright—that the amendment is likely to lead to speculation. I submit there is absolutly no speculation ,no room for speculation in this matter, well defined by law. 15 per cent. is a specific proportion. I fail to understand how speculation would arise from this. This principle has already been accepted in the case of the Land Acquisition Regulation without danger of speculation. I therefore submit that there is no fear of speculation in this case either. With these words, I press the amendment.

MR. K. P. ABRAHAM (*Muvattupuzha* cum *Todupuzha*) : Does the member realise that the amendment will be a sort of check on the indiscriminate exercise of compulsion in the matter of acquisition by the Municipalities ?

MR. M. GOVINDAN (*Nominated*) : Yes, quite so.

But, it is not that aspect of the matter that has induced me to bring forward this amendment. My point is that it is a matter of bare justice that the owner, who is *compelled* to part with his property, that he should be given this *solatium*.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Sir, I can fully understand the point that the land acquired should be fairly valued, and that the owner must be paid adequate compensation for the loss that he is likely to sustain for parting with his property. But, I cannot understand that he should be paid something more in addition to the fair value of the property. The chief argument advanced in support of the argument is that a similar provision occurs in the Land Acquisition Regulation.

MR. S. CHATTANATHA KARAYALAR (*Pattanapuram* cum *Shencotta*) : Is there not a similar provision in the Municipal Regulation also ?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : We are now concerned with the law relating to town-planning. In regard to town-planning, as I have already pointed out, everywhere the law is as in the Bill now before the House. It is so in

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[Mr. Kayalam Paramesvaran Pillai]

Madras, and I believe also in England. Sir, this provision was carefully considered by the Committeé. No doubt, there is some provision, like the one suggested by the amendment, in the case of land acquired by Government.

MR. S. CHATTANATHA KARAYALAR (*Pattanapuram* cum *Shencotta*): As I have already pointed out, is there not a provision in the Municipal Regulation for the *solatium* being paid in the case of land acquired for municipal purposes? Is not the principle the same in this case also?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No; all acquisitions of land made by the Municipality need not necessarily be directly for the benefit of the citizens. For instance, land may be acquired by a Municipality for constructing a building for its office. That is not the case with town-planning. I do not see any reason why the owners of property should be paid anything more than what the properties are really worth merely because the acquisition happens to be compulsory.

The amendment was put to the vote and lost.

MR. M. GOVINDAN (*Nominated*): I demand a poll.

A poll was taken with the following result :—

AYES—19.

1	Mr. K. P. Abraham.	11	Mr. S. Krishna Pillai.
2	Mrs. Anna Chandi.	12	Mr. Tariatu Kunjitomman.
3	Mr. K. C. Chandi.	13	Mr. K. Kunjukrishna Pillai.
4	Mr. S. Chattanatha Karayalar.	14	Mr. K. Madhavan Pillai.
5	Mr. A. S. Damodaran Asan.	15	Mr. K. P. Madhavan Pillai.
6	Mr. M. Govindan.	16	Mr. M. P. Madhavan Pillai.
7	Mr. N. John Joseph.	17	Mr. M. Mahomed Mustapha.
8	Mr. Joseph Kunju.	18	Mr. A. Narayana Pillai.
9	Mr. K. C. Karunakaran.	19	Mr. K. Padmanabha Panikkar.
10	Mr. N. K. Krishna Pillai.		

NOES—23.

1	Mr. R. Dhanukoti Pillai.	12	Mr. E. G. McAlpine.
2	Mr. K. George.	13	Mr. R. Nilacanta Pillai.
3	Mr. K. Gopalakrishna Pillai.	14	Mr. N. K. Padmanabha Pillai.
4	Mr. K. I. Kocheeppan Mappillai.	15	Mr. Kayalam Paramesvaran Pillai.
5	Mr. K. P. Kochukora Tarakan.	16	Dr. K. Raman Tampi.
		17	Mr. S. C. H. Robinson.
6	Mr. E. V. Krishna Pillai.	18	Mr. Rama Varma Raja.
7	Mr. K. Krishnan Nayar	19	Mr. R. S. Subrahmanya Pillai.
8	Mr. A. Kumara Pillai.	20	Mr. A. Thanu Pillai.
9	Rao Sahib Dr. N. Kunjan Pillai.	21	Mr. R. Vaidyalingam Pillai.
		22	Mr. P. Visvanatha Aiyar.
10	Mr. C. O. Madhavan.	23	Mr. J. S. Westerdale.
11	Mr. P. S. Mahomed.		

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NEUTRAL—1

Mr. L. A. Lampard.

The question that clause 34 do form part of the Bill was put to the vote and carried. The clause was added to the Bill.

Clauses 35 to 43.

Clauses 35 to 43 of the Bill were put and carried.

The clauses were added to the Bill.

Clause 44.

MR. A. THANU PILLAI (*Trivandrum*): Sir, I beg to move the following amendment:—

In sub-clause (1), line 1, delete the word "When" and substitute the words "may with the consent of" for the words "after consulting" and in line 3, insert "and when they so decide" between the words "Board" and "they."

If amended as I now suggest, the clause would read thus:—

"Our Government may, with the consent of the Municipal Council, decide that the interests of town-planning in any particular area will be best served by entrusting it to a special board, and when they so decide, they may, by notification in Our Government Gazette, constitute such a board, to be called "The (name of town or other area) Town-Planning Trust" hereinafter referred to as "the trust" and thereupon the duty of carrying out the provisions of this Regulation in such local area shall, subject to the conditions and limitations hereinafter contained, be vested in the trust."

The object of my amendment is to see that town-planning trusts are created by Government *only with the consent* of the Municipalities concerned. The Bill provides for the making of town-planning schemes and for bringing them into effect. Government may ask a Municipality to prepare a town-planning scheme; the Municipality may prepare it and when the scheme is approved by Government, it would be put into effect by the Municipal Council. Apart from such ordinary cases, the Bill also provides that town-planning trusts may be created in cases in which the Government consider that the constitution of such trusts would be better, for the working out of the schemes, than the Municipalities themselves. Sir, under the Bill, if such trusts are constituted, the Municipality would be practically superseded by the trust, in respect of town-planning. That will be the result of the creation of these trusts. Clause 49 of the Bill says:—

"When a trust has been duly constituted the provisions of Chapters I to VIII of this Regulation shall, within the area entrusted to it, for town-planning purposes, apply in full as though the words "trust" and "chairman" of the trust" were substituted for "Municipal Council" and "Chairman of the Council or Chairman."

All the powers of the Municipal Council will be vested in the trust and all the powers vested in the Chairman of the Municipality will be vested in the chairman of the trust. In effect, the trust will take the place of the Municipal Council for purposes of town-planning. The question is whether the Government should have the power to bring into existence a trust like that without the consent of the Municipality concerned. My amendment seeks to provide that it shall not be possible for the Government to create any such trust without the consent of the Municipality concerned. What are the functions and

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[Mr. A. Thanu Pillai.]

powers of these trusts? As I said, the Municipalities are actually superseded, in the matter of town-planning, by these trusts. A perusal of clause 45 will show that the constitution of the trust mostly rests with the Government. Government can fix the salary of the chairman. They can fix the bodies which are to elect representatives to form the elected majority in these trusts. Clause 46 provides that Government may remove any trustee and deal with the trusts in other ways also. Government may also direct the Municipality to make over any amount from the municipal funds to be spent by the trust. Clause 50 reads thus :—

> "The Municipal Council in whose area a trust operates shall pay annually to the trust such amount as may be agreed on between them or as may be fixed by our Government."

When the trust has completed its work, when the object for which the trust was created has been achieved, the Municipality is bound to take over the results of the operation of the trust, with all the liabilities and assets. Even if the work of the trust has resulted in loss, the Municipality is bound, under this bill, to bear all such loss and liabilities. Sir, such are the provisions in relation to these trusts. Under such circumstance, is it beneficial, I ask, to vest the Government with the power to bring into existence such trusts, *without the consent* of the Municipalities concerned? That is the simple question that has to be answered in connection with my amendment. I say, "No". The Municipal Council itself is composed mostly of the representatives of the rate-payers of the Municipality. Therefore, it may be presumed that the best men available would alone constitute these Municipalities and that they would take proper care of the interests of the inhabitants of these Municipalities. If a particular Municipality contends that the creation of such a trust would not be in the interests of the inhabitants of the locality, why should the Government be empowered to create such a trust to supersede the Municipality? No doubt, if really the constitution of such a trust would be for the benefit of the people, the Municipality would surely give its consent to the creation of such a trust. But, my point is that the Government should not be empowered to constitute such a trust quite *against* the wishes of the Municipal Council, composed as it is of the trusted representatives of the people of the locality who are to be directly affected by the labours of these trusts.

MR. K. KUNJUKRISHNA PILLAI (*Quilon*): May I ask the member, what is the provision, in regard to this matter, in the Town-Planning Act in force elsewhere, in Madras for example?

MR. A. THANU PILLAI (*Trivandrum*): The provision in Madras is, I admit, as in the Bill; but we need not always be guided by that. I may also draw the attention of my friend to the fact that, in Madras, the administration of self-governing institutions including Municipalities is in the hands of a Minister, *elected by the representatives of the people* and not in the hands of an officer appointed by Government. That point of difference, between Madras (and other places) and Travancore has to be borne in mind in considering this provision.

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MR. K. P. ABRAHAM (*Muvattupuzha cum Todupuzha*): Under Clause 10 of the Bill, are not the Government empowered to compel a Municipality to formulate a town-planning scheme?

MR. A. THANU PILLAI (*Trivandrum*): Yes. I admit Government have also got the power to compel the Municipality to put the scheme into effect. Clause 10 says: –

"..... Such requisition shall operate and be treated in every respect as a resolution passed by the council under Section 7 and the council shall, proceed as if by a resolution the council had decided to prepare the scheme."

The order of Government has the effect of a resolution of the council to prepare the scheme. I admit that.

MR. RAMA VARMA RAJA (*Edavagai*): I second the amendment. I do not know whether I will have time to-day to speak on the amendment.

DEPUTY PRESIDENT: We will now adjourn and meet again to-morrow at 11-30 A. M.

The Council adjourned at 5-3 P. M.

P. VISVANATHA AIYAR,
Secretary to the Legislative Council.

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